

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

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In re	:	Chapter 9
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CITY OF DETROIT, MICHIGAN,	:	Case No. 13-53846
	:	
Debtor.	:	Hon. Steven W. Rhodes
	:	
	:	
-----X		

**EX PARTE MOTION OF THE CITY OF DETROIT
FOR ENTRY OF AN ORDER AUTHORIZING IT TO FILE
A CONSOLIDATED PRETRIAL BRIEF IN EXCESS OF PAGE LIMIT**

The City of Detroit, Michigan (the "City"), as the debtor in the above-captioned case, hereby files this *ex parte* motion (the "Motion") for the entry of an order authorizing the City to file a consolidated brief (the "Consolidated Pretrial Brief"), consisting of the City's (i) pretrial brief in support of confirmation of the Corrected Fifth Amended Plan for the Adjustment of Debts of the City of Detroit (Docket No. 6379) (the "Corrected Fifth Amended Plan" or the "Plan") and (ii) response to supplemental objections to confirmation of the Plan (the "Supplemental Objections") and certain objections filed by individual retirees and individual bondholders (the "Individual Objections"), in excess of the 100-page limit for pretrial briefs imposed by the Seventh Amended Order Establishing Procedures, Deadlines and Hearing Dates Relating to the Debtor's

Plan of Adjustment (the "Scheduling Order"). In support of the Motion, the City respectfully represents as follows:

1. The City filed the Corrected Fifth Amended Plan on July 29, 2014. The hearing on confirmation of the Plan (the "Confirmation Hearing") is scheduled to begin on August 21, 2014.

2. The Scheduling Order: (a) establishes a deadline of August 15, 2014 for parties, including the City, to file pretrial briefs; (b) provides that such briefs "shall be limited to 100 pages in length;" and (c) establishes August 15, 2014 as the deadline for the City to file "one combined response to supplemental objections to the plan and to objections filed by individual bondholders and individual retirees." Scheduling Order, at ¶ 5.

3. The Scheduling Order further provides that the City may combine its (a) pretrial brief and (b) response to Supplemental Objections and Individual Objections, in a single consolidated document. See id. In the interest of efficiency, the City intends to file a consolidated pretrial brief and response to objections in accordance with paragraph 5 of the Scheduling Order.

4. To obtain confirmation of the Plan, the City is required to prove that it has satisfied each of the confirmation requirements of section 943(b) of the Bankruptcy Code by a preponderance of the evidence. See In re Barnwell Cnty. Hosp., 471 B.R. 849, 855-56 (Bankr. D.S.C. 2012) ("Debtor has met its burden of

satisfying the confirmation requirements of § 943(b) by a preponderance of the evidence, which is the applicable evidentiary standard."). To establish its *prima facie* case in support of confirmation of the Plan, the City is thus required to (a) address each section of the Bankruptcy Code that is relevant to confirmation of the Plan and (b) demonstrate, in its pretrial brief and at the Confirmation Hearing, that each applicable confirmation requirement has been satisfied.

5. As the Court noted in the Order Regarding Participation at the Confirmation Hearing by Creditors Who Filed Objections Without an Attorney (Docket No. 6584), more than 600 Individual Objections have been filed. Although the Order Requiring City to Respond to Certain Pro Se Objections to Confirmation (Docket No. 6640) (the "Pro Se Objections Order"), entered on August 11, 2014, eliminates the need to respond to many of the Individual Objections in the Consolidated Pretrial Brief, the City intends to address certain of the issues raised in the Individual Objections in the Consolidated Pretrial Brief to the extent that (a) such issues are not identified in the Pro Se Objections Order and (b) the City has not previously addressed such issues in its prior briefing.

6. In addition, in the Consolidated Pretrial Brief, the City also must respond to: (a) certain legal arguments to which the City has not previously responded that were raised in briefs filed pursuant to the Order Identifying Legal Issues, Establishing Supplemental Briefing Schedule and Setting Hearing Dates

and Procedures (Docket No. 5235) (the "Supplemental Legal Arguments"); (b) objections to Plan confirmation filed by the UAW and AFSCME (Docket Nos. 6464 and 6468, respectively)¹ subsequent to the City's filing of the Consolidated Reply to Certain Objections to Confirmation of Fourth Amended Plan for the Adjustment of Debts of the City of Detroit (Docket No. 5034) (collectively with the Individual Objections, the Supplemental Objections and the Supplemental Legal Arguments, the "Objections"); and (c) any Supplemental Objections that may be filed in accordance with the Scheduling Order (which Supplemental Objections, the City expects, will be substantial).

7. The City submits that it requires more than 100 pages to (a) set forth its *prima facie* case in support of confirmation of the Plan and (b) address the numerous issues to which the City has not previously responded that have been, or will be, raised in the Objections. Accordingly, the City respectfully requests that it be (a) granted relief from the page limit for pretrial briefs imposed by paragraph 5 of the Scheduling Order and (b) permitted to file its Consolidated Pretrial Brief in excess of 100 pages in length.

¹ The objections filed by the UAW and AFSCME were timely filed pursuant to stipulations approved by the Court. See Docket Nos. 6363 (extending time for the UAW to file an objection) and 6413 (extending time for AFSCME to file an objection).

WHEREFORE, the City respectfully requests that this Court: (i) enter an order substantially in the form attached hereto as Exhibit 1, granting the relief sought herein; and (ii) grant such other and further relief to the City as the Court may deem proper.

Dated: August 12, 2014

Respectfully submitted,

/s/ Heather Lennox

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ATTORNEYS FOR THE DEBTOR

SUMMARY OF ATTACHMENTS

The following documents are attached to this Motion, labeled in accordance with Local Rule 9014-1(b).

Exhibit 1	Proposed Form of Order
Exhibit 2	None [Motion Seeks <i>Ex Parte</i> Relief]
Exhibit 3	None [Brief Not Required]
Exhibit 4	Certificate of Service
Exhibit 5	None [No Affidavits Filed Specific to This Motion]
Exhibit 6	None [No Documentary Exhibits Filed Specific to this Motion]

EXHIBIT 1

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

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In re	:	Chapter 9
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CITY OF DETROIT, MICHIGAN,	:	Case No. 13-53846
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Debtor.	:	Hon. Steven W. Rhodes
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***EX PARTE* ORDER
AUTHORIZING THE CITY OF DETROIT TO FILE
A CONSOLIDATED PRETRIAL BRIEF IN EXCESS OF PAGE LIMIT**

This matter coming before the Court on the *Ex Parte* Motion of the City of Detroit for Entry of an Order Authorizing it to File a Consolidated Pretrial Brief in Excess of Page Limit (the "Motion"),¹ filed by the City of Detroit, Michigan (the "City"); and the Court being fully advised in the premises;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.

¹ Capitalized terms not otherwise defined herein have the meanings given to them in the Motion.

2. The City is granted relief from the page limit for pretrial briefs set forth in paragraph 5 of the Scheduling Order and may file its Consolidated Pretrial Brief in excess of 100 pages.

EXHIBIT 4

CERTIFICATE OF SERVICE

I, Heather Lennox, hereby certify that the foregoing *Ex Parte* Motion of the City of Detroit for Entry of an Order Authorizing It to File a Consolidated Pretrial Brief in Excess of Page Limit was filed and served via the Court's electronic case filing and noticing system on this 12th day of August, 2014.

/s/ Heather Lennox